

Maryland Agricultural Land Preservation Program

AGRICULTURAL PRESERVATION DISTRICTS

This Fact Sheet describes the benefits and restrictions associated with agricultural preservation districts and their future role in the Agricultural Land Preservation Program.

The Future Role of Agricultural Preservation Districts in the Maryland Agricultural Land Preservation Program

Since the Program was founded in 1977, agricultural preservation districts were a statutory prerequisite for easement application. Landowners voluntarily agreed to a five-year restriction on their right to develop an eligible farming property in return for the ability to offer to sell an easement to the Maryland Agricultural Land Preservation Foundation (MALPF). Districts helped counties control the rate and location of development, acted as a mechanism to insure eligibility for program participation, provided a pool of "pre-approved" potential applicants for each year's easement acquisition cycle, and helped counties and the State anticipate the Program's future funding requirements.

A recent review of the role of districts in the MALPF Program recommended that districts no longer be a prerequisite for easement application and that State agricultural districts be phased out over time. The conclusion of the review was that districts had become more of a barrier to land preservation than a benefit. Most of the benefits that accrue to individual counties from the district program could be replicated with a county district program.

As a result of this recommendation, legislation was passed in 2007 that ended the requirement for district establishment as a prerequisite for applying to sell an easement to MALPF as of July 1, 2007. No new district petitions were accepted after June 30, 2008. As of June 30, 2012, all MALPF districts will be unilaterally terminated by the State. Landowners with districts fulfilling the five-year commitment before June 30, 2012, may terminate those districts upon the completion of their commitment. Some counties have required district commitments longer than five years. Please consult your district agreement for any specific requirements that may differ from the discussion in this fact sheet.

Individual counties retain the right to require that your property be in a county agricultural land preservation district as a condition of county approval of the application to sell your easement to the Foundation. Please consult your county program administrator for any district requirements or policies that differ from MALPF requirements.

Benefits from District Establishment

When an agricultural preservation district was originally established, you (or the landowner at the time) signed an agreement which was notarized and recorded among the land records of the county. The agreement, which is in effect for at least five years even if the property is sold or transferred during that period, provides the following benefits:

- The security of knowing that the land and any nearby districts and easements are protected from development.
- An official acknowledgment from the Foundation and the county that farming and forestry are the preferred uses of the land. Although the outcome is not guaranteed, it is certainly useful evidence if you were ever involved in defending yourself against a nuisance complaint filed by non-farming neighbors in court.
- The retention of eligibility by the original owner who signed the district agreement for family, owner's, or child's lots to be released from the district agreement, or a single unrestricted lot that could be released from the district agreement. (For the lot rights retained by the original signer of the district agreement, see the fact sheet entitled "Retained Residential Lot Options on Easement Properties (post-October 2003)" or "Retained Residential Lot Options on Easement Properties (pre-October 2003)" for the conditions under which this eligibility can be exercised. The conditions that apply to district agreements signed after October 2003 are delineated in the first fact sheet, and the conditions applying to district agreements signed before October 2003 are delineated in the second fact sheet. The process for the release of lots is described in the fact sheet entitled "Review and Approval Criteria and Process for Lot Release Requests.") Any lot rights exercised while the property is under a district agreement will affect the lot rights that remain after selling a permanent easement to MALPF.
- Pre-approval of any application to sell the property's agricultural preservation easement to MALPF is not a guarantee that an offer will be forthcoming, because offers depend on the relative ranking of the property and available funding. In years of limited funding, the MALPF Board may limit the number of applications accepted from each county; in such a year, even though a district is pre-approved, if it does not rank high enough for the cut-off, it may not be forwarded by the county to MALPF.
- Some individual counties have established property tax credit programs for landowners with properties in agricultural districts and/or make eligibility for participation in other programs dependent of district status. Please contact your county program administrator for information on the availability of tax or other benefits based on your property's district status.

The Restrictions of the Five-Year District Agreement

The district agreement in force on agricultural district properties contains substantially the same restrictions that are in force on properties permanently preserved by MALPF.

- The land may not be developed or subdivided for industrial, commercial or residential use except for certain personal eligibility options you retain.
- Signs or billboards may not be displayed on the property except for signs smaller than four feet square which may only be erected for the following purposes:
 - to state the name of the property and the name and address of the occupant;
 - to advertise a home based occupation consistent with the purposes of the easement; or,
 - to advertise the property's sale or rental.
- Trash or rubbish may not be dumped on the property. Any material which is for regular agricultural use may be dumped.
- Soil erosion and water quality practices contained within a soil conservation plan approved by the local soil conservation district must be implemented. The practices shall be installed on the land according to the schedule of implementation within the plan. The plan must be completely implemented within ten years of the easement settlement date.
- Representatives of the Foundation shall be permitted to periodically inspect the property for compliance with the conditions of the easement. The representatives shall have no right to inspect the interior of any structures.
- The easement does **not** grant the public any right to access or use the land.

Terminating Your Five-Year District Agreement

Once you have completed your five-year commitment* in the district agreement, you may terminate your State agricultural district at any time for any reason. To do so, please submit a letter signed by all current titled landowners requesting termination of the district to the Foundation's office. In response, the Foundation will send you a **Release and Termination of Agricultural Land Preservation District** for all titled landowners to sign, notarize, and return. Once this has been received by the MALPF office, the Release and Termination document will be recorded among the land records of the county where the property is located and the district agreement will be terminated.

MALPF staff does everything possible to expedite the processing of legal documents and cannot accept requests to expedite the process further by hand-delivery or other specialized and individualized treatment of documents. If processing your termination request must be completed by a certain date, please submit your request several months in advance to ensure that the termination process can be completed in a timely manner.

Unless and until you have completed your commitment and requested termination in writing, a district agreement will continue to apply to all activities on the district property. Although agricultural districts are being phased out of the MALPF Program, district agreements will remain in effect for the full five-year commitment made by the landowner. MALPF District agreements not terminated before June 30, 2012, will be unilaterally terminated by MALPF on that date.

Consider a Permanent Agricultural Preservation Easement

As an owner of an agricultural district property, the Foundation encourages you to consider seriously placing a permanent agricultural preservation easement on your property. You are familiar with the operation of the MALPF Program and the restrictions of a permanent easement, because you have already been a Program participant with a district agreement. If you have questions about the permanent easement program, please consult the other fact sheets and contact your county program administrator.

This fact sheet is a public document and is provided for general information only. If you have a question about a specific law, regulation, or provision of the district agreement, option contract, or deed of easement, please consult legal counsel.

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<http://www.malpf.info/facts/fact14.pdf>